

**VA RESEARCH AND EDUCATION CORPORATIONS AUTHORIZED BY TITLE 38
UNITED STATES CODE (U.S.C.) SECTIONS 7361 THROUGH 7368 HANDBOOK**

- 1. REASON FOR ISSUE:** This Veterans Health Administration (VHA) Handbook provides policies, procedures, and instructions governing non-profit Research and Education Corporations created pursuant to sections 7361 through 7368, United States Code.
- 2. SUMMARY OF MAJOR CHANGES:** This issuance constitutes a complete revision of existing policy.
- 3. RELATED DIRECTIVE:** VHA Directive 1200, issued November 1, 2001.
- 4. RESPONSIBLE OFFICE:** The Office of Research and Development (12) is responsible for the contents of this VHA Handbook.
- 5. RESCISSION:** VHA Handbook M-3, Part I, Chapter 17, is rescinded.
- 6. RECERTIFICATION:** This document is scheduled for recertification on or before the last working date of December 2006.

Thomas L. Garthwaite, M.D.
Under Secretary for Health

DISTRIBUTION: CO: E-mailed 12/18/2001
FLD: VISN, MA, DO, OC, OCRO, and 200 – E-mailed 12/18/2001

CONTENTS

**VA RESEARCH AND EDUCATION CORPORATIONS AUTHORIZED BY TITLE 38
UNITED STATES CODE (U.S.C.) SECTIONS 7361 THROUGH 7368 HANDBOOK**

PARAGRAPH	PAGE
1. Purpose	1
2. Scope	1
3. Establishment of VA Research and Education Corporations	1
4. Directors, Officers, and Employees of Corporations	2
5. Providing and Funding Administrative and Research Services	4
6. Authorities and Limitations Affecting Research and Education Corporations	5
7. Corporate Management	6
8. Review and Approval of Research Projects and Education Activities for Purposes of Accepting Donated Support from Corporations	8
9. Oversight and Accountability of Corporations	9
10. Suspension and Dissolution of Corporations	11
APPENDIXES	
A Instructions for VA Non-profit Research and Education Corporations Annual Report, Report Control Number (RCN) 10-0889	A-1
B Sample Format, VA Non-profit Research and Education Corporations Annual Report Form (Due June 1 Annually)	B-1
C Sample Format for Acknowledgement Letters for Unrestricted Forms	C-1
D Statement from Directors, Officers and Employees of the VA-Affiliated Non-Profit Corporation Certifying Compliance with Federal Conduct and Conflicts Of Interest Laws	D-1

**VA RESEARCH AND EDUCATION CORPORATIONS
AUTHORIZED BY TITLE 38
UNITED STATES CODE (U.S.C.) SECTIONS 7361 THROUGH 7368**

1. PURPOSE

This Veterans Health Administration (VHA) Handbook provides policies, procedures, and instructions governing non-profit Research and Education Corporations created pursuant to sections 7361 through 7368 of Title 38, United States Code (U.S.C.). Among the procedures in this Handbook are those prescribed by the Under Secretary for Health under section 7364(b) and (c) of that title. This Handbook pertains to non-profit Department of Veterans Affairs (VA) Research Corporations that manage research funding and non-profit VA Research and Education Corporations that manage both research and education funding. Non-profit VA Education Corporations that manage education funding are governed by VHA Handbook 1400.2. The term “Research and Education” in this Handbook should be read as “Research” when applied to non-profit VA Research Corporations.

2. SCOPE

a. Research and Education Corporations (“Corporations”) exist and may exist solely to facilitate research and education at the medical center by acting as a flexible funding mechanism. The Corporations are subject to dissolution should they not serve the best interest of VA. VA employees involved in any fashion in the affairs or operations of the Corporations must ensure that the Corporations further the interests of the Department, VHA, and VA research and education programs.

b. Every research project approved by the facility Research and Development (R&D) Committee is a VA research project, regardless of the source of funding or the entity administering the funds, and regardless of the research site (see VHA Directive 1200).

3. ESTABLISHMENT OF VA RESEARCH AND EDUCATION CORPORATIONS

a. **Establishment.** Pursuant to delegation by the Secretary of Veterans Affairs to medical center Directors, each medical center Director is authorized to establish a Corporation as permitted under law. A medical center Director must notify the Chief Research and Development Officer (CRADO) in VA Central Office when a Research Corporation has been incorporated. When a Research and Education Corporation has been incorporated, or an existing research corporation expands its charter to include education, the medical center Director must also notify the Chief Academic Affiliations Officer in VA Central Office. At some VA medical centers, a position titled medical center Director may not exist. The official responsible for carrying out the equivalent responsibilities of a medical center Director may exercise the same authority relative to the establishment and oversight of a Corporation. **Authority:** 38 U.S.C. section 7361(a); Cf. 38 U.S.C. section 512; 38 U.S.C. section 7363. **NOTE:** When a Corporation is established solely to support education, the medical center Director must notify the Chief Academic Affiliations Officer in VA Central Office (see VHA Handbook 1400.2).

b. **State Law.** Each Corporation must conform to the applicable non-profit corporation law of the jurisdiction in which it is organized. **Authority:** 38 U.S.C. section 7365.

c. **Official Resources.** Reasonable and necessary VA resources may be used to establish a Corporation. The medical center also may provide the Corporation space for activities and services such as maintenance, repair, and utilities without reimbursement. **Authority:** *Cf 38 U.S.C. section 7362(a).*

d. **Expiration of Authority.** No Corporation may be established after December 31, 2003. **Authority:** *38 U.S.C. section 7368 as amended by Public Law 106-419.*

4. DIRECTORS, OFFICERS, AND EMPLOYEES OF CORPORATIONS

a. **Board of Directors**

(1) **Eligibility.** The corporate directors, known collectively as the Board of Directors, are responsible as provided by state law for the management and operation of the Corporation.

(a) The board must consist of at least five members including:

1. Statutory Directors, who are:

a. The medical center Director,

b. The Chief of Staff (COS), and

c. The Associate Chief of Staff for Research (ACOS/R&D).

d. The Associate Chief of Staff for Education (ACOS/E) is included for research and education Corporations.

NOTE: *In the case of a facility at which the positions of medical center Director, COS, ACOS/R&D, and ACOS/E do not exist, those officials who are responsible for carrying out the equivalent responsibilities shall serve on the board. Authority: 38 U.S.C. section 7363(a)(1); VAOPGCADV 40-89 (Office of General Counsel O.G.C.Adv.40-89).*

2. Nonstatutory Directors. At least two persons who are not officers or employees of the Federal Government, and who are familiar with issues involving research or education and training as appropriate for the activities of the Corporation. Members of the board who are not Federal officials or employees may not be affiliated with, employed by, or have any other financial relationship with any entity that is a source of funding for VA research and education, unless that source of funding is a governmental entity or an entity the income of which is exempt from taxation under the Internal Revenue (IRS) Code of 1986. However, persons who own stock in such entities may be board members as long as they do not own a controlling interest. **Authority:** *38 U.S.C. section 7363(c).*

(2) **Appointments and Changes to the Board of Directors.** The medical center Director is authorized to approve all appointments and all changes to the membership of the Corporation's Board of Directors serving that VA medical center.

(3) **Authority to Act.** The Board of Directors of each Corporation has authority to act for the Corporation as provided in its articles of incorporation and bylaws. This includes the authority to appoint, subject to the concurrence of the medical center Director, an Executive Director for

the general operation of the Corporation and to establish the specific duties and responsibilities of the Executive Director.

(4) **Compensation.** Statutory members of the Board of Directors, including the medical center Director, the COS, and the ACOS/R&D or ACOS/E, or their local equivalents, may not receive any compensation for services to the Corporation since their service as members of the Board is part of their VA duties and responsibilities. The Corporation may compensate other members of the Board of Directors, who do not serve on the Board as part of any Government employment. **Authority:** 18 U.S.C. section 209; 38 U.S.C. section 7363; VAOPGCADV 40-89 (O.G.C.Adv.40-89).

b. **Officers.** The officers of the Corporation are to be appointed by the Board of Directors consistent with state law. The medical center Director, the COS, the ACOS/R&D and ACOS/E or their local equivalents may serve as corporate officers, but cannot receive compensation for such services. Other VA employees, subject to employee standards of ethical conduct, may be compensated if they serve as corporate officers. VA employees who also serve as officers of the Corporation may receive compensation for Corporation work performed outside their VA duties during non-VA duty hours. However, they may not receive compensation from the Corporation for any such services carried out during their VA duty hours.

c. **Executive Director.** The Board of Directors appoints an Executive Director. Individual medical center Directors are authorized by the Under Secretary for Health, pursuant to 38 U.S.C. section 7363(b), to concur in the appointment of an Executive Director. The Executive Director can receive a Corporation salary for services provided to the Corporation. If the Executive Director is also an employee of VA, the Executive Director may be compensated only for services performed for the Corporation that are outside the scope of the Executive Director's VA duties and are performed outside VA-duty hours. **Authority:** 38 U.S.C. sections 7363, and 7366 (c); 18 U.S.C. section 209.

d. **Employees**

(1) **Work of Employees.** The Corporation may employ individuals to work on VA-approved research projects or education and training activities. Corporation employees assigned to VA to provide research, education, or training services are subject to VA's supervision, direction, and control.

(2) **Corporation Employees with VA Without Compensation (WOC) Appointments.** All Corporation employees, including VA employees who work for the Corporation during their non-VA duty hours, who are assigned to VA to work on research projects or education and training activities, must have a WOC appointment regardless of whether they receive a corporate salary.

e. **Conflict of Interest Issues.** All Corporation board members, officers, and employees are subject to Federal statutes and regulations applicable to Federal employees with respect to conduct and conflicts of interest. Applicable Federal statutes and regulations include 18, U.S.C. sections 202 through 209, and Title 5, Code of Federal Regulations (CFR) part 2635. At the time the relationship or employment is initiated, each Corporation board member, officer, and employee must sign a statement certifying awareness of and compliance with Federal conduct and conflicts of interest laws and regulations. This statement is to be retained in each board member's, officer's, or employee's file. Annually, the Executive Director must certify that such

a statement is on file for each board member, officer, and employee (see App. D). *Authority:* 38 U.S.C. section 7366.

f. **Liability and Insurance**

(1) Because work on approved research projects or approved education and training activities is in furtherance of a Government mission, actions of Corporation board members, officers, and employees, including those on WOC status, working on an approved VA research project or on an approved education or training activity, will generally be protected from personal liability consistent with the Federal Tort Claims Act (FTCA). This protection is subject to certification by the Attorney General that the individual was performing services within the scope of Government employment and, ultimately, subject to a decision of a court of law. Because such protection is not a certainty and since Corporation activities not directly related to approved VA research, education or training may be judged to be outside the scope of Government employment and not protected under FTCA; therefore, the Corporation needs to purchase sufficient liability insurance for board members, officers, and employees.

(2) Statutory board members (see subpar. 4a(1)(a)1(a-d)) need to be considered Government employees for the purposes of compensation for work injuries (see 5 U.S.C. Ch. 81). Non-statutory members of the Board of Directors and employees of the Corporation (e.g., corporate officers, the Executive Director, research technicians, nurses, and any private legal counsel) need to be entitled under relevant state law to compensation for work-related injuries. *Authority:* 28 U.S.C. sections 1346 (b), and 2671; Cf. 38 U.S.C. section 7316.

5. PROVIDING AND FUNDING ADMINISTRATIVE AND RESEARCH SERVICES

VA employees who, as part of their official responsibilities have any role or function, whether statutory or otherwise, in the affairs or operations of Corporations, are required to ensure that the Corporations further the best interests of VA.

a. **Use of VA Time or Resources to Support Management or Other Internal Operations of Corporations.** In general, official VA-time and other VA resources may not be used to carry out administrative functions of established Corporations, such as accounting, resources management, and reporting. One exception is that statutory members of the Board of Directors of Corporations necessarily use VA-time and other official resources to fulfill their responsibilities as board members. Use of VA resources to carry out activities which clearly and primarily promote the VA research and education missions is not objectionable, if the activities coincidentally further internal Corporation purposes. *Authority:* 31 U.S.C. section 1301.

b. **Use of Corporation Funds for VA Salaries and Expenses Related to Approved Research Projects or Education Activities.** VA employees assigned as part of their VA duties to carry out research projects or education and training activities, that have been approved under applicable procedures, are performing functions that Corporations are intended to support. It is lawful for Corporations to reimburse VA appropriation accounts for salaries and other costs of these activities. However, it is a violation of the prohibition against supplementation of Federal salaries for a Corporation to pay VA employees directly for such activities, even if the activities are being performed outside VA duty hours. Corporation employees, including VA employees hired by the Corporation to do work that is distinct from their official VA duties and performed outside their VA duty hours, may be paid directly by Corporations for carrying out research projects and education activities approved under paragraph 8. *Authority:* VHA Supplement to MP-4, Part VII, section 4.01h, DM&S Supplement.

c. **Use of Corporation Employees to Support Approved Research Projects and Education Activities.** Corporation employees may be assigned to work on approved VA research projects or approved education and training activities provided that they have a VA WOC appointment. Although employed by the Corporation, their services are donated to support VA research and education missions, and their work is subject to the supervision, direction, and control of VA.

6. AUTHORITIES AND LIMITATIONS AFFECTING RESEARCH AND EDUCATION CORPORATIONS

a. **Tax Exempt Status.** The Secretary of Veterans Affairs is required by law to dissolve a Corporation if it does not obtain approval from the IRS as a tax-exempt organization within 4 years of the date of its incorporation. The Corporation must comply with applicable IRS and state regulations. **Authority:** *26 U.S.C. section 501(c)(3); 38 U.S.C. section 7361(b).*

b. **Donations.** Corporations may accept donations, in cash or in kind, from for-profit, non-profit, public, or private entities.

c. **Assurances.** Corporations are not authorized to give assurances or other commitments concerning VA decision-making, including assurances that VA will fulfill any particular purpose for which a donor intends a gift to be used. Corporations may not give any assurance that conflicts with Federal law.

d. **Agreement.** Corporations may not enter into agreements that purport to supersede or are contrary to Federal law. Corporations are strongly encouraged to seek VA Counsel review and approval of any substantive clause in a draft agreement that has not been previously approved by VA Counsel (such as, but not limited to, a patent clause, a confidentiality clause or an indemnification clause). Studies administered under agreements that contain inappropriate language may be terminated and the funds returned to the sponsor. Corporations found to sign agreements containing inappropriate terms may be required to obtain VA Counsel approval of all ongoing and future agreements, or may be subject to the sanctions provided in paragraph 10. The Corporation must maintain a record of all such consultations. Corporations do not have authority to bind VA to any course of action, or agree to any provision for liquidated damages or other compensation for failure to implement the purpose for which the gift is given. **Authority:** *38 U.S.C. section 7366.*

e. **Recourse.** Corporations must include the following as a term of acceptance in the agreement (see subpar. 6d) with the donor: the sole consequence of any failure to implement a purpose for which a donor intends a gift to be used is the refund of the gift. A Corporation needs to purchase sufficient liability insurance to protect the corporation, its board members, officers, and employees against suits arising from negligence, errors and omissions.

f. **Contracts with VA.** Corporations may not contract with VA to provide goods or services. **Authority:** *38 U.S.C. section 7361; Cf. VAOPGCADV 57-89 (O.G.C.Adv.57-89).*

g. **State Law.** Each Corporation must conform to the applicable non-profit Corporation law of the jurisdiction in which it is organized.

h. **Federal Law.** If state law conflicts with Federal law governing the Corporations, then Federal law preempts the conflicting state law. *Authority:* 38 U.S.C. sections 7361(a), and 7365.

i. **Interpretation of Law.** Only the VA General Counsel speaks authoritatively upon the numerous Federal laws governing the VA mission. General Counsel interpretations of such laws are controlling. *Authority:* Public Law (Pub. L.) 100-527, section 8 (1988); 38 CFR section 14.500 (b).

j. **Legal Counsel.** Either VA legal counsel or private legal counsel (paid for by Corporation funds) may be used in the operation of the Corporation. *NOTE: If the Corporation uses private legal counsel, the Corporation must, on a quarterly basis, provide a copy of all written legal advice from private counsel to the appropriate VA Regional Counsel in that respective jurisdiction. On a quarterly basis, the Corporation must also provide the Regional Counsel in the respective jurisdiction with copies of billings for services rendered by private counsel.*

k. **Disbursement.** No expenditure of funds for a research project or education and training activity is permitted unless the project or activity is first reviewed and approved under prescribed procedures (see par. 8).

l. **Transfer of Funds.** VA cannot transfer funds appropriated to VA to the Corporation. VA may transfer to the Corporation any other funds received by VA for the conduct of research or education and training. *Authority:* 38 U.S.C. section 7362.

m. **Employee Education System (EES).** Research and Education Corporations may provide funds to VA's EES to perform education and training activities for the medical center that have been approved under paragraph 8.

7. CORPORATE MANAGEMENT

a. **Documenting Donations.** The Corporation must document acceptance of donations. Documentation includes a formal acknowledgement of every donation. The acknowledgement must contain a statement setting out the nature and conditions of the donation (see App. C). *Authority:* 38 U.S.C. section 7366(d)(2).

b. **Management of Funds.** Guaranteeing the safety of the Corporation's assets is the primary goal in management of Corporation funds. The Corporation may deposit funds in interest bearing Federally-insured accounts at either a bank or through a brokerage firm providing full Federal Deposit Insurance Corporation (FDIC) (or equivalent credit union) coverage of all deposits. The Corporation may use idle funds to purchase instruments backed by the full faith and credit of the United States Government such as Treasury bills, notes, and bank certificates of deposit. Investment in stocks, mutual funds, certain Federal agency financial instruments, or similar investment vehicles is not allowed. *Authority:* 38 U.S.C. section 7362; VAOPGCADV 18-91(O.G.C.Adv.18-91); VAOPGCADV 55-90 (O.G.C.Adv.55-90).

c. **Official Approval.** An appropriate official of the Corporation must approve all expenditures. That official may be the Executive Director, or another person designated by the Corporation's Board of Directors.

d. **Documenting Relationship Between Corporation and VA.** When transferring funds to VA, the Corporation must document the transaction. The documentation may consist of the

following: a bill for collection, an Intergovernmental Personnel Act (IPA) mobility assignment, or an approved Memorandum of Understanding (MOU), as well as other records. *Authority:* 38 U.S.C. sections 7362 and 7364.

e. **Professional Memberships.** Corporation funds may be used to pay for corporate membership in professional organizations.

f. **Publications.** Corporation funds may be used to pay for publications that facilitate the interests of VA's research and education missions.

g. **Travel Expenditures.** Corporation funds may be used for the following purposes:

(1) Travel directly related to an approved research project or to an approved education or training activity;

(2) Travel related to Corporation business, e.g., travel to further the acquisition of resources.

Authority: 38 U.S.C. section 7362; MP-1, Parts I and II or superseding document.

h. **Licensing.** The Corporation may not pay for professional licenses for VA employees. The Corporation may pay for licensure for qualified individuals who work exclusively for the Corporation if such payment can be related to support of the VA research or education mission.

i. **Multi-Center Activities.** A Corporation may administer funds for multi-center research projects or education and training activities, provided that, in doing so, the corporation is serving the research and education missions at its "home" medical center, and that the multi-center activities benefit approved research projects or education and training activities at the medical facility where the Corporation is established.

j. **Residual Funds.** Any residual funds remaining after a research project or education activity that the donor does not want returned, will be used for the general support of approved VA research projects or education activities consistent with the requirements of this Handbook.

k. **Records and Records Retention**

(1) The Corporation must make and preserve records of the organization, including its functions, policies, decisions, procedures, and transactions in accordance with commonly accepted non-profit practices and commonly accepted accounting practices. These records must be:

(a) Designed to furnish information needed to protect the legal and financial rights of the Government and of persons directly affected by the Corporation's activities; and

(b) Maintained for the benefit of the Corporation.

(2) The Corporation's officers and directors must fulfill their fiduciary obligations to the Corporation by providing proper documentation that will:

(a) Evidence proper approval of major business decisions.

(b) Evidence information necessary if the IRS conducts a review of the Corporation's tax-exempt status. All pertinent tax records for purposes of IRS review shall be retained for 6 years.

(3) All other non-tax records shall be retained according to Federal and state laws.

(4) The creation and maintenance of such records must be consistent with accounting procedures established by the Corporation.

(5) The Corporation must maintain adequate and sufficient timekeeping, payroll and other records of compensation to clearly demonstrate that compensation is paid in accordance with corporate policy for work conducted outside a VA tour of duty. *Authority: 26 U.S.C. section 6501; Cf. 38 U.S.C. sections 7363 and 7365; 18 U.S.C. section 209.*

8. REVIEW AND APPROVAL OF RESEARCH PROJECTS AND EDUCATION ACTIVITIES FOR PURPOSES OF ACCEPTING DONATED SUPPORT FROM CORPORATIONS

a. A medical center having a Corporation established to support research must have an R&D Committee appointed by the medical center Director. The majority of members of the R&D Committee shall be persons who are not board members, officers, or employees of the Corporation.

(1) Prior to the expenditure of any funds by the Corporation for a research project, the committee shall review and evaluate the project in accordance with procedures prescribed by the Under Secretary for Health.

(2) No Corporation may spend funds for a research project without prior approval of the R&D Committee.

(3) Research and Education Corporations found to be supporting inappropriate activities may be required to have all activities reviewed by the R&D or the Education Committee, as appropriate, and submitted to the medical center Director for approval. Such Corporations may also be subject to the sanctions described in paragraph 10.

b. A medical center having a Corporation that supports education and training activities must have an Education Committee appointed by the medical center Director.

(1) No corporation may spend funds for an education or training activity unless the activity has been reviewed and approved in accordance with procedures prescribed for education by the Under Secretary for Health.

(2) Types of education and training activities which may be approved are:

(a) Patient related activities. These activities include education activities for veterans, their families and guardians, including instruction or other learning experiences related to improving or maintaining the health of veterans.

(b) Employees. Work-related experiences for employees designed to:

1. Improve performance of current duties;

2. Assist employees in maintaining or gaining specialized proficiencies; or
3. Expand understanding of advances or changes in patient care, technology, or health care administration. *NOTE: These activities include education and training conducted as part of a residency or other program designed to prepare an individual for an occupation or profession.*
 - c. An Education Committee may not approve an activity, project, or program until the committee has determined the following with respect to the activity, project, or program:
 - (1) The extent of its value to VA.
 - (2) Its furtherance of the VA healthcare mission.
 - (3) Its enhancement of the efficacy and efficiency of VA.
 - (4) Its promotion of patient health, improvement of patient care, or improvement of employee performance.
 - d. Residencies, and other clinical training programs that prepare individuals for an occupation or profession, must be accredited by a national body recognized by VA for the specific discipline. The Chief Academic Affiliations Officer in VA Central Office must approve all other residency or clinical training programs before such programs can accept support from a VA non-profit Corporation. *NOTE: Continuing education activities are not subject to this requirement.*

Authority: Cf. 38 U.S.C. sections 7362, 7364(c), 7302, 7471, 8154; Pub. L. 106-117.

9. OVERSIGHT AND ACCOUNTABILITY OF CORPORATIONS

a. **Accountability, Oversight, and Audit.** In connection with any audit, inquiry, investigation, or review of Corporation activities, the Corporation must cooperate with and make its records available to the VA Inspector General, the Comptroller General, the IRS, the Secretary of Veterans Affairs, and the State where the Corporation is doing business. *Authority: 38 U.S.C. section 7366.*

b. **Reporting Requirements.** A Corporation must submit a report each year to the Secretary of Veterans Affairs. The report must include the following information:

(1) Each Corporation with revenues in excess of \$300,000 for any year must obtain an independent audit of the financial statements of the Corporation for that year. A Corporation with annual revenues between \$10,000 and \$300,000 must obtain an audit of the Corporation at least every 3 years.

(2) By June 1 of each year, Corporations must submit an annual report to either the Office of Research and Development (ORD) (12), VA Central Office, or the Office of Academic Affairs (144), VA Central Office, or both, as appropriate, detailing Corporation funding and expenditures. The annual report is required even if the Corporation did not accept or expend funds during the previous year. *NOTE: The information contained in the Corporation's report is used to prepare VA's annual report to Congress regarding the Corporations. The Corporation's annual report is assigned Report Control Number (RCN) 10-0889 (see App. A and App. B).* The annual report must include:

- (a) An independent auditor's report for the Corporation's last completed fiscal year (see subpar. 9b(1)).
- (b) IRS Form 990 or 990 EZ with schedules, Return of Organization Exempt From Income Tax, for the Corporation's last completed fiscal year even if revenues fall below the IRS reporting threshold of \$25,000.
- (c) An annual statement signed by the Corporation's Executive Director verifying that each board member, officer, and employee has certified an awareness of, and compliance with such laws and regulations pertaining to conduct and conflicts of interest in the same manner required of Federal employees (see App. D).
- (d) The location of the Corporation.
- (e) The amount received by the Corporation during the previous year, including the following:
1. The total amount received;
 2. The amount received from governmental entities for research and the amount received from governmental entities for education;
 3. The amount received from all other sources for research and the amount received from all other sources for education; and
 4. The amount received from a source referred to in subparagraph 9b(2)(e)3, if it exceeded \$25,000, as well as information that identifies the source.
- (f) The amount expended by each Corporation during the year including the following:
1. The amount expended for salary for research staff, the amount expended for salary for education staff, and the amount expended for salary for support staff;
 2. The amount expended for direct support of research and the amount expended for direct support of education; and
 3. The amount and identification of the payee if the amount expended with respect to the payee exceeded \$35,000.
- (g) The amount expended by the Corporation during the year for travel conducted in conjunction with research and the amount expended for travel in conjunction with education.

NOTE: *The Executive Director of the Corporation is responsible for providing a copy of the auditor's report to the Chief Fiscal Officer or equivalent at the VA medical center which the Corporation serves.*

Authority: *Pub. L. 104-262.*

10. SUSPENSION AND DISSOLUTION OF CORPORATIONS

a. When the Corporation is not acting in the best interest of VA, or is in violation of state or Federal statutes, the Chief Research and Development Officer or Chief Academic Affiliations Officer may impose a temporary suspension on Corporation research and education activities. During a temporary suspension, the Corporation may take no action without the review and signature of the medical center Director. After a temporary suspension is imposed, VHA will review whether to order the dissolution of the Corporation. **Authority:** *38 U.S.C. section 7361*

b. The Secretary of Veterans Affairs has authorized the medical center Director to order the dissolution of a Corporation at any VA medical center based on a determination that the Corporation is no longer serving the interest of VA. Medical center Directors are required to dissolve a Corporation in accordance with state law when dissolution has been ordered.

c. If a Corporation has not been recognized as a tax-exempt organization under 26 U.S.C. section 501(c)(3) by the end of the 4-year period beginning on the date of the incorporation of the Corporation, the Under Secretary for Health, or designee, must order the dissolution of the Corporation. **Authority:** *38 U.S.C. sections 512 and 7361; 26 U.S.C. section. 501(c)(3).*

**INSTRUCTIONS FOR VA NON-PROFIT RESEARCH AND EDUCATION
CORPORATIONS ANNUAL REPORT
REPORT CONTROL NUMBER (RCN) 10-0889**

Each year, Corporations are required to submit certain information to the Secretary of Veterans Affairs. In addition, the Department of Veterans Affairs (VA) is required to submit a report to Congress providing detailed information about the Research and Education Corporations. In order to compile this report, VA needs specific information from each Corporation. In the format provided in this appendix, send the following documentation listed to: VA Central Office, Office of Research and Development (12), and Office of Academic Affiliations (144), 810 Vermont Avenue, N.W., Washington, DC 20420. This report is due each year on June 1. Two reports are necessary: education is reported to 144; research is reported to 12. **NOTE:** *Audits and completion of Internal Revenue Service (IRS) Form 990, Return of Organization Exempt From Income Tax, needs to be scheduled to allow timely compliance with this deadline.*

1. **A list of all material activities and accomplishments.** A list of research and educational activities supported by the Corporation during the previous year fulfills this requirement.

2. **A copy of the Corporation's audit (with the auditor's management letter) for the Corporation's last completed fiscal year.** An annual audit is required for each year a Corporation's revenues exceed \$300,000. A Corporation with annual revenues between \$10,000 and \$300,000 is required to obtain an audit at least once every 3 years. A corporation is exempt from this requirement each year that revenues fall below \$10,000.

3. **A copy of the Corporation's IRS Form 990 for the Corporation's last completed fiscal year.** All corporations must complete an IRS Form 990 annually even if revenues fall below the IRS threshold of \$25,000. Be sure that the IRS Form 990 accurately provides the following information:

(1) The amount received during the previous year including the total:

(a) Revenues (Form 990, Line 12).

(b) Amount received from Governmental entities (Form 990, Part I, Line 1c).

(c) Amount received from all other sources (Total of Form 990, Part I, Lines 1a, 1b and 2).

(2) The amount expended during the year including:

(a) The total amount expended for salary for research and education staff (Total of Form 990, Part II, Lines 25, 26, 27, 28, 29, Column (B)).

(b) The amount expended for salary for support staff (Total of Form 990, Part II Lines 25, 26, 27, 28, 29, Column (C)).

(c) The total amount expended for direct support of research and education (Form 990, Part II, Line 44, Column (B)).

(d) The total amount expended for travel for research and education (Form 990, Part II, Line 39, Column (B)).

4. Although it is not required in the IRS Form 990, the statute that authorizes the Non-profit Corporations (NPCs) requires them to track research and education donations and expenditures. Accordingly, the Corporation should establish accounting systems sufficient to track and report research and education separately:

a. The amount received from Governmental entities for research (all or part of Form 990, Part I, Line 1c).

b. The amount received from Governmental entities for education (all or part of Form 990, Part I, Line 1c).

c. The amount received from non-Governmental entities for research (all or part of Form 990, Part I, Lines 1a, 1b and 2).

d. The amount received from non-Governmental entities for education (all or part of Form 990, Part I, Lines 1a, 1b and 2).

e. The amount expended for salary for research staff (all or part of sum of Form 990, Part II, Lines 25, 26, 27, 28, 29, Column (B)).

f. The amount expended for salary for education staff (all or part of sum of Form 990, Part II, Lines 25, 26, 27, 28, 29, Column (B)).

g. The amount expended for salary for support staff (combined research and education) (Form 990, Part II, Lines 25, 26, 27, 28, 29, Column (C)).

h. The amount expended for direct support of research (all or part of Form 990, Part II, Line 44, Column (B)).

i. The amount expended for direct support of education (all or part of Form 990, Part II, Line 44, Column (B)).

j. The amount expended for travel conducted in conjunction with research (all or part of Form 990, Part II, Line 39, Column (B)).

k. The amount expended for travel conducted in conjunction with education (all or part of Form 990, Part II, Line 39, Column (B)).

5. A list that identifies each donor whose total contributions for the year exceed \$25,000; provide name, location and total dollar amount.

6. **A list that identifies all employees and all payees, entities, and individuals, who received payment during the year from the Corporation in excess of \$35,000; provide name, location, and total dollar amount.** Corporations that use payroll services or employee leasing firms also must identify each individual employee paid more than \$35,000 during the year.

7. **A statement signed by the Executive Director of the Corporation verifying that each board member, officer, and employee has certified awareness of and compliance with, such laws and regulations pertaining to conduct and conflicts of interest in the same manner required of Federal employees.** To comply with this requirement, at the time a director, officer, or employee is appointed by the Corporation, a statement should be signed certifying compliance with and awareness of Federal laws and regulations pertaining to conduct and conflicts of interest (see App. D). This statement must be retained in the personnel file of each board member, officer, or employee. ***NOTE:** Once a year, the Executive Director needs to verify those employees' personnel files contain a signed certification.*

8. **Medical center Directors must notify the Office of Research and Development (12) and the Office of Academic Affiliations (144) as appropriate 30 days prior to dissolution of a Corporation.**

j. Travel expenditure for research. \$ _____

k. Travel expenditure for education. \$ _____

5. Copy of VA non-profit Corporation (VANPC) project list (satisfies accomplishments requirement).

Copy enclosed (Circle one) YES NO

6. Executive Director Certification with respect to conflicts of interest regulations:

I have verified that each board member, officer, and employee has certified awareness of and compliance with, Federal laws and regulations with respect to conduct and conflicts of interest in the performance of official functions in the same manner as Federal employees are required to.

Executive Director Signature _____ Date _____

7. Name, location of donors, and amount for total contributions for the year exceeding \$25,000. Attach two copies of list in this sample format:

<u>Name</u>	<u>Location</u>	<u>Amount</u>
Robert Wood Johnson Foundation	Piscataway, NJ	\$ _____
Applied Microbiology	Tarytown, NY	\$ _____
Astra Merck	Wayne, PA	\$ _____

8. Name, location of employees, and payees (entities and individuals) with amount for total payments received for the year exceeding \$35,000. Attach two copies of list in this sample format:

<u>Name</u>	<u>Location</u>	<u>Amount</u>
U.S. Laboratory Supplies	Chicago, IL	\$ _____
Xerox Corporation	New York, NY	\$ _____

9. SUBMISSIONS

a. **Submit Report To:**

VA Western New York Health Care System	Tel: 716-862-6528
Attn: Administrative Officer/R&D (151)	Fax: 716-862-6526
3495 Bailey Avenue	
Bldg. 20, Room 129	
Buffalo, NY 14215	

December 17, 2001

**VHA HANDBOOK 1200.17
APPENDIX B**

b. Corporations that support both research and education also must submit a copy to:

VA Central Office
Office of Academic Affiliations (144)
810 Vermont Avenue, N.W.
Washington, DC 20420

Tel: 202-273-8369
Fax: 202-273-9376

**SAMPLE FORMAT FOR
ACKNOWLEDGMENT LETTERS FOR UNRESTRICTED FUNDS**

SAMPLE 1

(To Representative of funding organization)

Dear ____ (Representative) ____:

(Corporation) acknowledges receipt of your check in the amount of ____ (\$ amount) ____, Check Number ____ (check number) ____ for use in the general support of research and education.

Acceptance of this funding does not imply endorsement on our part or on the part of the Department of Veterans Affairs. We thank you for your consideration and support.

Sincerely,
(Official of the Corporation)

SAMPLE 2

ACKNOWLEDGMENT LETTERS FOR UNRESTRICTED FUNDS

(To funding organization)

Dear ___(Sponsor)___:

I am writing on behalf of the _____(Corporation)_____ to acknowledge receipt of check number (number) in the amount of ___(\$ amount)___ from ___(Sponsor)____. It is our understanding that this amount is provided in support of ___(research project or education activity)____. It is our understanding that there are no other restrictions on the use of these funds.

This activity was approved with the understanding that all funding will be administered by _____(Corporation)_____. Accordingly, payment may be made only to _____(Corporation)_____. Under no circumstances will ___(Sponsor)___ make any payment associated with this activity directly to any corporation or VA employee.

Upon completion of the activity, it is our usual practice to use the remaining balance of funds, if any, for the general support of approved VA research projects or education activities. Please advise _____(Corporation)_____ if this is not acceptable to you or if use of the funds is restricted.

_____(Corporation)_____ is pleased to participate in this activity with ___(Sponsor)____. We thank you for your contribution.

Sincerely,
Authorized Foundation Official

SAMPLE 3

ACKNOWLEDGMENT LETTERS FOR UNRESTRICTED FUNDS

(Study Sponsor)

Dear ___(Sponsor)___:

I am writing on behalf of the _____(Corporation)_____ to acknowledge receipt of check number ___(number)___ in the amount of \$ ___(amount)___ from (Sponsor).

It is our understanding that this amount is provided in support of the research project entitled ___(name of project)___ which has been approved for performance at the _____(VA medical center name)___ under the direction of ___(principal investigator)___.

Please be advised that _____(foundation)_____ assumes no responsibility for the actual conduct of the research which is the responsibility of the principal investigator with oversight by the Research and Development Committee of the _____(VA medical center name)___.

The study will be performed as a part of ___(principal investigator)___'s official duties. ___(Principal investigator)___ will receive no personal compensation from these funds. Additionally, the study was approved with the understanding that all funding associated with the project will be administered by _____(Corporation)_____. Accordingly, payment for the conduct of the project may be made only to _____(Corporation)_____. Under no circumstances will ___(Sponsor)___ make any payment associated with this project directly to the principal investigator, any of the investigator's employees or to any other organization or party involved in this project.

Upon completion of the study, it is our usual practice to use the remaining balance of funds, if any, for the general support of approved VA research projects or education activities. Please advise _____(Corporation)_____ if this is not acceptable to you or if use of the funds is restricted.

_____ (Corporation)_____ is pleased to participate in this research with (Sponsor). We thank you for your contribution.

Sincerely,
Authorized Foundation Official

SAMPLE FORMAT

**STATEMENT FROM DIRECTORS, OFFICERS, AND EMPLOYEES
OF THE VA-AFFILIATED NON-PROFIT CORPORATION
CERTIFYING COMPLIANCE WITH FEDERAL CONDUCT AND
CONFLICTS OF INTEREST LAWS**

I hereby certify that I am aware of and am in compliance with the Federal laws and regulations applicable to Federal employees with respect to conduct and conflicts of interest related to the performance of my official functions at the (research and education corporation).

(Signature)

(Typed or Printed Name)

(Title)

(Date)